

REMARKS

No new matter has been added.

The Office Action mailed June 28, 2006, has been received and reviewed. Claims 1 through 11 are currently pending in the application. Claims 1 through 11 stand rejected. Applicants have amended claims 1, 3, 5 and 7 and respectfully request reconsideration of the application as amended herein.

35 U.S.C § 101 Non-Statutory Subject Matter

Claims 3 and 4 were rejected under 35 U.S.C. § 101 because the claimed invention was directed to non-statutory subject matter. Applicants have amended independent claim 3 to recite a method including method steps. Accordingly, Applicants respectfully request the rejection of independent claim 3 and claim 4 depending therefrom be withdrawn.

35 U.S.C. § 102 Anticipation Rejections

Anticipation Rejection Based on Gagnon (EP 1 024 661 A2).

Claims 3 and 4 stand rejected under 35 U.S.C. § 102 as being anticipated by Gagnon (EP 1 024 661 A2), (hereinafter “Gagnon”).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131 (Aug. 2001) (*quoting Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Id.* (*quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In addition, “the reference must be enabling and describe the applicant’s invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that claims 3 and 4 are not anticipated by the Gagnon reference because the reference does not disclose all the claim limitations of the presently claimed invention as set forth above.

Applicants submit that the Gagnon reference does not disclose the claim limitations of “wherein the ***SDP message provides information for processing payload data of the broadcast session***” (Currently Amended Independent Claim 3).

Claims 3 and 4

The Office Action in the Response to Arguments section concedes that the Gagnon reference does not disclose Applicants’ invention as presently claimed. Specifically, the Office Action agrees with the Gagnon reference’s disclosure of the limited use of the SDP message. Specifically, the Office Action states:

... The Examiner interprets the claims as follows: ... a session description protocol message (SDP message) ..., wherein the SDP message provides information for processing the broadcast session is read on Gagnon’s reference wherein the SDP+ record are periodically broadcast by the transmission station (corresponding to broadcast SDP), and processed by the receiver station clearly the SDP+ records interleaved the broadcast file data. The ***SDP message includes a number of fields***, which are assembled into a single record or file ***to provide information on available services*** (corresponding to SDP message assembled or interleaved with broadcast session, paragraphs 36 and 83-88). (Office Action, pp. 7-8; emphasis added.)

In distinct contrast, Applicants’ invention as currently amended in independent claim 3 recites, in part, “the ***SDP message provides information for processing payload data of the broadcast session***” which is not disclosed in the Gagnon reference. In distinct contrast, the Gagnon reference transmits **information** that is used to build a structure **independent of the broadcast session**, namely the Gagnon reference’s program guide. The program guide includes clips of multiple broadcast channels as well as the structure to present the programming choices. In the Gagnon reference, the transmitted programming guide information has no bearing upon the processing of any of the payload data of the broadcast channels but is merely provided as a completely independent source of information. A user makes a selection from the program guide and then begins receiving the broadcast. In short, the transmission or non-transmission of the Gagnon reference’s program guide information has no bearing upon processing payload data of any broadcasting session. Furthermore, since the program guide is independent of actual payload data of the broadcast session, the Gagnon reference cannot and does not disclose

“the **SDP message provides information for processing payload data of the broadcast session**” as claimed by Applicants.

While the Gagnon reference continues to expound upon fields and information content of the SDP+ record (e.g., start and end times of the broadcast, the repeat times of the broadcast, addresses of Internet web pages that provide additional information regarding the specific program item, etc.), the SDP+ record clearly further enhances the **independent** program guide of the Gagnon reference rather than “the **SDP message provides information for processing payload data of the broadcast session**” as claimed by Applicants.

Furthermore, Applicants respectfully submit that that the Gagnon reference’s disclosure of providing a program guide to aid in broadcast session selection does not disclose “the **SDP message provides information for processing payload data of the broadcast session**” as claimed by Applicants. . Additionally, the Gagnon reference discloses packetized data used to provide a programming guide and does not deliver an actual broadcast session. The additional citation to paragraphs 83-88 expounds further on the use of SDP records to create the program guide. Neither citation indicates that the Gagnon reference provides anything but a program guide.

Applicants submit that since the Gagnon reference does not disclose all of the limitations of Applicants’ invention as claimed, the Gagnon reference cannot anticipate Applicants’ invention as claimed under 35 U.S.C. § 102. Therefore, Applicants respectfully request that the rejections be withdrawn.

Claim 4 is allowable as depending directly from allowable independent claim 3.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on Gagnon (EP 1 024 661 A2) and Further in View of U.S. Patent No. 5,673,259 to Quick Jr.

Claims 1, 2, and 5-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gagnon (EP 1 024 661 A2), and further in view of Quick Jr. (U.S. Patent No. 5,673,259 hereinafter “Quick Jr.”). Applicants respectfully traverse this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

The 35 U.S.C. § 103(a) obviousness rejections of claims 1, 2 and 5-11 are improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet at least the criterion that the prior art reference must teach or suggest all the claim limitations. Applicants submit that any proposed combination of the Gagnon reference in view of the Quick Jr. reference does not and cannot establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of amended independent claims 1, 5, 7, and claims 2, 6, 8-11, depending therefrom because, at the very least, the cited prior art does not teach or suggest all the claim limitations of the presently claimed invention as set forth hereinabove.

Applicants submit that the proposed combination of the Gagnon reference and Quick Jr. reference does not teach or suggest the claim limitations of “***broadcast overhead information provides information for processing payload data*** of the broadcast session” (Currently Amended Independent Claim 1) and “***the SDP message provides information for processing payload data*** of the broadcast session” (Currently Amended Independent Claims 5 and 7).

Claims 1 and 2

The Office Action alleges:

Regarding claim 1, Gagnon teaches in a wireless communication system supporting a broadcast service . . . , a method comprising: transmitting a broadcast session on a broadcast transmission channel (. . . **col. 10, lines 45 to col. 11, line 17**).

Gagnon further teaches “transmitting broadcast overhead information” interleaved with the broadcast session on the broadcast

transmission channel (. . . **col. 11, line 46 to col. 12, line 26**), wherein the transmission of packet data, the packetized data stream includes a header that identifies the contents of data packet (audio/video programming) (i.e., the header that identifies the content is included in the broadcast signal).

Gagnon does not explicitly teach wherein the broadcast overhead information provides information for processing the broadcast session.

However, the preceding limitation is known in the art of communications. Quick Jr. teaches broadcasting system overhead information wherein the information is interleaved with paging and control message on a broadcast channel; the overhead information is sent by the base station to a control parameter, and a process to process message and switch from one channel to another based on bandwidth demand (**col. 4, lines 39-61, col. 11, lines 10-20, and col. 15, lines 26-44**). . . . (Office Action, p. 4; emphasis added).

Applicants respectfully disagree with the Office Action's characterization of the Gagnon reference, as noted above.

Applicants respectfully submit that since both the Gagnon reference and the Quick Jr. reference are silent regarding information that is “***broadcast overhead information ... for processing payload data*** of the broadcast session” as claimed by Applicants, the cited references, namely the Gagnon reference in view of the Quick Jr. reference, do not and cannot establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of amended independent claim 1 and claim 2 depending therefrom because, at the very least, the cited prior art does not teach or suggest all the claim limitations of the presently claimed invention as set forth hereinabove.

Applicants further submit that the Gagnon reference teaches away from Applicants' invention. As discussed above, the Gagnon reference teaches providing a program guide to assist users in selecting broadcasts to view. Because the Gagnon reference's program guide is independent of the broadcast, it is not possible for the Gagnon reference to teach the limitation of “***information for processing payload data*** of the broadcast session” and in fact teaches away from this limitation found in Applicants' amended independent claim 1.

The Quick Jr. reference teaches a method and system for communicating a data packet. (Abstract) At the cited portion, the Quick Jr. reference teaches:

. . . in a digital communication system having a broadcast channel for communicating system information and an access channel for making access requests, the system information including paging messages, the digital communication system including a plurality of transceivers each having a specific long code, the present invention is a system for communicating a digital data packet. In the system of the present invention, a communicating transceiver from among the plurality of transceivers initializes a packet service request, requests a searcher reservation on the access channel, and sends the digital data packet over a random access channel using the specific long code corresponding to the communicating transceiver to obtain a coded digital data packet. **(col. 4, lines 39-61)**

The system described by the Quick Jr. reference utilizes the broadcast channels to transmit information for mobile transceivers to access the communication network. This information is not comparable to the broadcast transmissions of broadcast sessions of Applicants' invention. Furthermore, the Quick Jr. reference teaches away from Applicants' invention. Using an SDP message as in Applicants' invention allows the mobile terminal to determine settings for receiving a broadcast without setting up a packet data call. The mobile terminal can receive the SDP description needed to receive the broadcast directly from the content server since the SDP message is interleaved with the broadcast content. In direct contrast, the Quick Jr. reference merely teaches or suggests a method for data transmission in a packet data system.

In addition, Applicants respectfully submit that it would not be obvious to combine the Gagnon and Quick Jr. references. The Gagnon reference discloses and teaches a program guide while the Quick Jr. reference teaches using broadcast channels to transmit information to allow mobile stations to access a communication network. Combining the Gagnon and Quick Jr. references would result in some form of a program guide to assist a system to access broadcast messages to allow mobile stations to access the communication system. Accordingly, the broadcast messages of the Quick Jr. reference are not equivalent to the broadcast session of Applicants' amended independent claim 1.

Applicants submit that since neither the Gagnon reference nor the Quick Jr. reference, either individually or in any proper combination, teach or suggest all of the limitations of Applicants' invention as claimed, these references cannot render obvious Applicants' invention as claimed under 35 U.S.C. § 103. Therefore, Applicants respectfully request that the rejections be withdrawn.

Independent claims 5 and 7 are allowable for the same reasons given above for claim 1.

Claims 5, 6 and 8-11

The Office Action similarly alleges teachings by the Gagnon reference and the Quick Jr. reference as described above. Applicants respectfully disagree with the Office Action's characterization of the Gagnon reference and the Quick Jr. reference.

Applicants herein sustain the above proffered arguments, namely that the Gagnon reference does not teach or suggest "the ***SDP message provides information for processing payload data*** of the broadcast session" as claimed by Applicants in amended independent claims 5, 7 and claims 6, 8-11 depending therefrom.

Furthermore, since both the Gagnon reference and the Quick Jr. reference are silent regarding "the ***SDP message provides information for processing payload data*** of the broadcast session" as claimed by Applicants, the cited references, namely the Gagnon reference in view of the Quick Jr. reference, do not and cannot establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of amended independent claims 5, 7 and claims 5, 6, and 8-11 depending therefrom.

Applicants submit that since neither the Gagnon reference nor the Quick Jr. reference, either individually or in any proper combination, teach or suggest all of the limitations of Applicants' invention as claimed, these references cannot render obvious Applicants' invention as claimed under 35 U.S.C. § 103. Therefore, Applicants respectfully request that the rejections be withdrawn.

CONCLUSION

Claims 1-11 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,

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